

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Francesca Chery	Team: Squad #14	CCRB Case #: 202204945	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/28/2022 4:20 PM, Tuesday, 12/20/2022 10:42 AM	Location of Incident: Van Name Avenue and Richmond Terrace, Civilian Complaint Review Board	18 Mo. SOL 1/28/2024	Precinct: 121		
Date/Time CV Reported Thu, 07/28/2022 6:25 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/28/2022 6:25 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Joseph Perfetto	03325	949473	121 PCT
2. SGT James Haley	01904	949076	121 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Robert Semioli	22740	964286	121 PCT
2. SGT Valerie Durets	00414	951701	121 PCT
3. PO Evan Fernandez	25000	963026	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT James Haley	Abuse: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Sergeant James Haley stopped the vehicle in which § 87(2)(b) was an occupant.	
B . PO Joseph Perfetto	Abuse: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto frisked § 87(2)(b)	
C . PO Joseph Perfetto	Abuse: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto searched § 87(2)(b)	
D . PO Joseph Perfetto	Abuse: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto failed to provide § 87(2)(b) with a business card.	
E . PO Joseph Perfetto	Untruthful Stmt.: On December 20th, 2022, at the Civilian Complaint Review Board, Police Officer Joseph Perfetto provided a false official statement to the CCRB.	

### Case Summary

On July 28, 2022, § 87(2)(b) filed this complaint via the CCRB's online website on behalf of himself and his mother, § 87(2)(b).

On July 28, 2022, at approximately 4:20 p.m., § 87(2)(b) was commuting from work and drove his vehicle along Richmond Terrace and Van Name Avenue, in Staten Island. § 87(2)(b) was accompanied by his mother, § 87(2)(b) who rode in the front passenger's seat. § 87(2)(b) was pulled over by Police Officer Joseph Perfetto, Police Officer Robert Semioli, and Sergeant James Haley, all of the 121 Precinct. PO Semioli informed § 87(2)(b) he was pulled over for temporary plates and requested to see his license and registration (**Allegation A: Abuse of Authority**, § 87(2)(g)). Moments later, PO Semioli informed § 87(2)(b) that there was an open warrant for him and placed § 87(2)(b) under arrest. PO Perfetto asked § 87(2)(b) to step out of the car, retrieved her purse from the passenger's seat and then PO Perfetto frisked and searched § 87(2)(b) purse (**Allegation B-C: Abuse of Authority**, § 87(2)(g)). PO Perfetto handed § 87(2)(b) her purse and then PO Perfetto, Sergeant Haley, and PO Semioli left § 87(2)(b) at the location. PO Perfetto failed to provide § 87(2)(b) with a business card (**Allegation D: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was taken to 121 Precinct stationhouse, where the open warrant for § 87(2)(b) was determined to be a computer error and his arrest was subsequently voided. § 87(2)(b) was released without any additional summonses or charges.

On December 20<sup>th</sup>, 2022, at approximately 10:42 a.m., at 100 Church Street in Manhattan, PO Perfetto made a false official statement to the CCRB (**Allegation E: Untruthful Statement**, § 87(2)(g)).

Body-worn camera footage (BWC) was received from Sergeant Haley, Police Officer Perfetto, Police Officer Semioli, and Sergeant Valerie Durets, and Police Officer Evan Fernandez, also of the 121 Precinct. The relevant aspects of footage are addressed in further detail below.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Sergeant James Haley stopped the vehicle in which § 87(2)(b) was an occupant.**

§ 87(2)(b) testified (**BR 01**) that at the time of the incident, he was driving with his mother, § 87(2)(b) in the passenger's seat. § 87(2)(b) was driving his girlfriend's car, which had temporary plates valid for another 20 days. § 87(2)(b) was pulled over by Sergeant Hayley, PO Perfetto, and PO Semioli. PO Semioli informed § 87(2)(b) that he was stopped for temporary plates and requested to see his license and registration. Moments later, PO Semioli informed § 87(2)(b) that there was an open warrant for him and asked him to step out of the vehicle. § 87(2)(b) immediately complied but said the warrant was an error because he already dealt with it. § 87(2)(b) was handcuffed and led to sit in the back of the police car nearby.

§ 87(2)(b) testified (**BR 02**) that at the time of the incident, she was riding in the passenger's seat of § 87(2)(b) vehicle when officers stopped him. § 87(2)(b) witnessed a brief back and forth between § 87(2)(b) and the officers regarding an open warrant before § 87(2)(b) was placed under arrest.

PO Perfetto testified (**BR 06, BR 07**) that at the time of the incident, PO Semioli was the operator of the vehicle, with Sergeant Haley in the passenger's seat, and PO Perfetto seated in the middle of the backseat. All officers present observed a vehicle infraction of § 87(2)(b) improperly displayed license plate, so they initiated a vehicle stop. PO Semioli did the initial procedural conversation with § 87(2)(b) retrieved his ID, and ran his name. Shortly afterward, PO Semioli informed § 87(2)(b) that he had an open warrant then placed § 87(2)(b) under arrest.

PO Perfetto's BWC (BR 03) at the 01:00 time stamp begins with PO Perfetto approaching a silver vehicle on the driver's side. PO Semioli, to the left of PO Perfetto, immediately asks § 87(2)(b) for his license and registration. PO Semioli further states that § 87(2)(b) is being pulled over due to the tags on his car and that he needs to have it affixed to the rear as well. At the 01:18 time stamp, § 87(2)(b) hands his information over to PO Semioli and PO Semioli asks if § 87(2)(b) is the registered owner of the vehicle. § 87(2)(b) confirms that it is his girlfriend's car. § 87(2)(b) begins to explain that he anticipated that the officers would pull him over because they recognized him. PO Semioli and PO Perfetto tell § 87(2)(b) that they do not know him at the 02:06 time stamp, PO Perfetto states that § 87(2)(b) license plate is not affixed properly. § 87(2)(b) insists that the officer could not have seen his license plate with the direction they drove, and PO Perfetto maintains once more, at the 02:13 time stamp, that they could see § 87(2)(b) license plate and it looks like he does not have a license plate (<<01:00-02:20>>). At the 02:50 time stamp, PO Semioli instructs § 87(2)(b) to step out of the vehicle, tells § 87(2)(b) he will pat him down, and then places § 87(2)(b) in handcuffs. At the 03:10 time stamp, PO explains that the reason the officers are bringing him in is because he has an open warrant, and they will get it sorted at the precinct with further information (<<02:50-03:10>>). The BWC footage does not depict any clear view of § 87(2)(b) license plate.

Sergeant Hayley's BWC (BR 05) and PO Semioli's BWC (BR 04) were both consistent with PO Perfetto's BWC for this portion of the incident and also do not present a view of § 87(2)(b) license plate. PO Duret and PO Fernandez's BWC do not capture this portion of the incident as they were only present at the stationhouse following § 87(2)(b) arrest. § 87(2)(b) testified that Sergeant Hayley pulled him over for temporary plates. PO Perfetto testified that § 87(2)(b) was pulled over for an improperly displayed license plate. § 87(2)(g)

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**Allegation (B) Abuse of Authority: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto frisked § 87(2)(b)**

**Allegation (C) Abuse of Authority: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto searched § 87(2)(b)**

**Allegation (D) Abuse of Authority: On July 28, 2022, at Van Name Avenue and Richmond Terrace in Staten Island, Police Officer Joseph Perfetto failed to provide § 87(2)(b) with a business card.**

§ 87(2)(b) testified that after he was placed in handcuffs, one of the officers instructed § 87(2)(b) to step out of the vehicle and she did so. § 87(2)(b) observed PO Perfetto take § 87(2)(b) purse from the passenger's seat of the vehicle, search it, and retrieve a pill bottle. § 87(2)(b) replied in Spanish that those were her blood pressure pills and § 87(2)(b) translated her response in English for the officers' understanding. Moments later, PO Perfetto returned the purse to § 87(2)(b) left her at the location, and § 87(2)(b) was taken to the 121<sup>st</sup> Precinct stationhouse where the matter of his arrest was cleared up as a technical error. § 87(2)(b) arrest was ultimately voided, and he was released from the stationhouse.

PO Perfetto's BWC (BR 03) at the 04:40 time stamp depicts § 87(2)(b) standing outside of the vehicle speaking with Sergeant Haley who asks her if she has anything in the car that belongs to her and she communicates that her wallet is inside. At the 05:30 time stamp, PO Perfetto leans into the car and looks around the car floor on the driver's side then walks around to the passenger's



side. At the 05:50 time stamp, PO Perfetto retrieves a small black purse and from 05:54-0:57, PO Perfetto squeezes the bottom of the purse. PO Perfetto holds the purse up to § 87(2)(b) and confirms that it was the wallet she was referring to. PO Perfetto further asks § 87(2)(b) if she has ID on her because he cannot release anything unless he knows it is hers. § 87(2)(b) unzips the purse while PO Perfetto holds it and takes out a wallet and begins to rummage through it. From the 06:09 time stamp to the 06:14 time stamp, PO Perfetto squeezes the bottom of the purse and then at the 06:16 time stamp, PO Perfetto reaches into the purse, takes out an orange pill bottle with no label, and then asks § 87(2)(b) what it is for. § 87(2)(b) calls out to § 87(2)(b) and says something in Spanish and § 87(2)(b) says the pills are high blood pressure pills and asks why they are searching his mother. PO Perfetto tells § 87(2)(b) no one is searching his mother and § 87(2)(b) argues that they are. PO Perfetto replies that no one is in her purse and at the 06:35 time stamp, PO Perfetto places the bottle back inside. At the 6:40 time stamp, § 87(2)(b) then presents a credit card and PO Perfetto asks § 87(2)(b) if she has a picture and § 87(2)(b) holds up a form of photo identification. PO Perfetto looks at the card, says okay, then hands § 87(2)(b) back the purse and tells her to have a good day. The BWC footage does not depict the pill bottle protruding from the top of the purse.

Sergeant Hayley's BWC (BR 05) is consistent with PO Perfetto's BWC for this portion of the incident. PO Semiolio's BWC (BR 04) does not capture this portion of the incident as he was not positioned close by during this portion of the incident. PO Duret and PO Fernandez's BWC do not capture this portion of the incident as they were only present at the stationhouse following § 87(2)(b) arrest.

PO Perfetto instructed § 87(2)(b) to step out of the vehicle and then moments later asked if she had any personal belongings in the vehicle and § 87(2)(b) confirmed she had a purse near the passenger's seat. PO Perfetto went to retrieve the purse and presented it to § 87(2)(b). § 87(2)(b) was not certain if she went into her own purse for her pill bottle medicine or if PO Perfetto went into the purse himself, but someone removed the pill bottle from her purse. PO Perfetto inquired about why the pill bottle had no informational sticker on it and why there were only two pills inside. § 87(2)(b) told PO Perfetto that the pills were for her high blood pressure and PO Perfetto returned the pill bottle. § 87(2)(b) believed that at some point, PO Perfetto told her to take out her ID, but she was not certain.

PO Perfetto did not recall if he or another officer instructed § 87(2)(b) to step out of the vehicle or if she exited on her own; however, § 87(2)(b) did exit the vehicle. Moments later, § 87(2)(b) informed PO Perfetto that she needed to get her wallet out of the vehicle. PO Perfetto went to go search for the wallet on the passenger's side, though PO Perfetto did not recall where exactly on the passenger's side that he retrieved the item. PO Perfetto held up a purse and § 87(2)(b) verbally confirmed this was the wallet she referred to. PO Perfetto asked § 87(2)(b) to confirm that it was her purse by showing him some ID. Given that the car was being taken to the stationhouse, PO Perfetto was required to verify ownership of any property leaving the car prior to its removal. PO Perfetto continued to hold the purse, while § 87(2)(b) unzipped the purse and took out her wallet with her ID. The action of § 87(2)(b) pulling out her ID caused a pill bottle to slide up to the top corner of the purse and PO Perfetto could see the bottle in plain view. PO Perfetto did not recall if the bottle was upside down, horizontal, or vertical inside the purse. PO Perfetto pulled out the bottle and inquired about its lack of label and its contents because he suspected illegal pill drugs. In PO Perfetto's past experiences on the job, bottles with no label turned out to contain narcotics that have resulted in multiple arrests which led to prosecutions. However, PO Perfetto further testified that there was nothing illegal about possessing a pill bottle with the label torn off. At no point during the incident was § 87(2)(b) stopped and she was always free to go. Prior to observing the pill bottle, PO Perfetto had no reason to believe § 87(2)(b) had anything weapons in her purse nor did he observe any bulges on the purse or otherwise believe her



was merely holding the purse, not frisking it. PO Perfetto was directly asked three times if he frisked the purse and each time PO Perfetto denied doing so.

Patrol Guide Procedure 203-08 (BR 15), prohibits an officer from making a false official statement and states that an officer found to have made such a statement will be subject to disciplinary action. The statement must be proven to have been made, material, and intentionally false.

PO Perfetto's testimony was inconsistent with his body-worn camera footage, which captures him frisking § 87(2)(b) purse twice, before searching the purse and retrieving a pill bottle. § 87(2)(g)

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#### Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 12).
- § 87(2)(b)
- PO Perfetto has been a member of service for 12 years and has been a subject in four CCRB complaints and eight allegations, none of which were substantiated. § 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 19, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (BR 10).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

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Squad: 14

Investigator: Francesca Chery Inv. Francesca Chery 09/18/2023  
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 09/19/2023  
Signature Print Title & Name Date

Reviewer:  
Signature

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Print Title & Name

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Date